

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Case No. 04-43861

Diane Anderson
and Al C Anderson,

Chapter 13 Case

Debtors,

**OBJECTION BY FORD MOTOR CREDIT COMPANY
TO CONFIRMATION OF CHAPTER 13 PLAN
WITH MEMORANDUM**

TO: Debtor(s) and other entities specified in Local Rule 9013-3.

1. Ford Motor Credit Company, (the "Respondent") is the holder of a claim in the above case, and, by its undersigned attorney, objects to confirmation of the proposed Chapter 13 Plan.
2. The petition commencing this Chapter 13 case was filed on July 13, 2004. The Debtor(s) have filed a Chapter 13 Plan which is scheduled for confirmation hearing on September 2, 2004 at 10:30 AM.
3. This objection arises under 11 U.S.C. §1324 and Fed. R. Bankr. P. 3015, and is filed under Fed. R. Bankr. P. 9014 and Local Rules 3015-3, 9013-2, 9013-3. Respondent objects to confirmation of the proposed Plan and requests an order denying confirmation of the proposed Plan.
4. Respondent is the holder of a claim, and is thus a party in interest.
5. The balance outstanding on the debt owed to Respondent by Debtor(s) is \$23,261.88.
6. Respondent holds a perfected security interest in a 2003 FORD EXPLORER SPORT 4WD XLT (the collateral). Copies of the Lien Card or the UCC-1 Financing Statement and of Respondent's Contract evidencing the underlying transaction are attached as Exhibits "A" and "B" respectively. The collateral is in the possession of the Debtor(s) herein. The present market value of the collateral on or about July 13, 2004 was \$18,800.00. Respondent's Contract provides for interest on the balance at the rate of 13.990 percent per year.

7. The Plan proposes that Debtor(s): (1) pay the Chapter 13 Trustee \$1,270.00 per month, (2) keep possession of the collateral, (3) allow Respondent to retain its lien on the collateral, and (4) pay Respondent on its claim through the Trustee payments.
8. The Plan includes Respondent's claim as an "Other Secured Claim [§1325(a)(5)]" and values Respondent's secured claim at \$18,800.00, treating any claim amount in excess of that value as a general unsecured claim and paying the secured claim value on a deferred payment basis.
9. The Plan proposes payments to Respondent of \$ 693.00 per month with payments beginning in month 2 with interest at unstated percent per year for total payments of \$23,500.00.
10. The Plan is objected to on the following grounds
 - a. Good Faith. That the Plan has not been proposed in good faith in violation of §1325(a)(3).

Under §1325(a)(3), the court cannot confirm a Chapter 13 plan that is not filed in good faith. In the 8th Circuit, good faith is determined by considering the totality of circumstances. In re LeMaire, 898 F.2d 1346 (8th Cir.1990). See also, In re Estus, 695 F.2d 311 (8th Cir.1982) and Education Assistance Corp. v. Zellner, 827 F.2d 1222 (8th Cir.1987).

Three factors are considered in determining whether a plan was proposed in good faith: (1) whether the Debtor accurately stated his expenses and debts; (2) whether the Debtor made a fraudulent misrepresentation to the Bankruptcy Court; and (3) whether the Debtor unfairly manipulated the Bankruptcy Code. Bayer v. Hill, 210 B.R. 794, 796 (8th Cir. BAP August 12, 1997). Other factors may also be considered, such as: the nature of the debts sought to be discharged, including their dischargeability under Chapter 7, and the debtor's reasons for seeking Chapter 13 relief. See In re Reynold and Patricia Mattson, 241 B.R. 629 (Bkrcty. Minn. 1999) (No. 99-42865, Nov. 30, 1999). "The bottom line for most courts, even those outside of this circuit, is whether the debtor is attempting to thwart his creditors or is making an honest attempt to repay them." Mattson, *supra*, page 637.

Debtor(s)' Schedules I and J show the following unnecessary expenses and/or luxury goods/services being retained:

\$90.00 Cable TV
\$80.00 2 cell phones (this is in addition to regular phone listed at \$30.00)
\$60.00 Pets
\$75.00 Recreation
\$70.00 Internet
\$267.00 Medical (questionable as Debtor has health insurance coverage as shown by \$207 per month health insurance deduction from his paycheck)

A Debtor(s)' proposal to retain luxury goods while proposing to pay unsecured creditors only a percentage of their claims is indicative of a lack of good faith. In re Nkanang, 44 B.R. 955, 956 (Bkrtcy.N.D.Ga. 1984), In re Porter, 102 B.R. 773 (9th Cir. B.A.P. 1989).

Allocating plan payments and disposable income toward loans and maintenance costs of non-essential assets while also proposing to defer, reduce, or even deny a return to other creditors, raises serious good faith questions. "In such a case, the Debtor proposes to build up equity in assets which the legislature has not found essential to a fresh start; more crucially, the Debtor proposes to correspondingly defer, reduce, or even deny a return to other creditors on their prior claims, by diverting estate resources to nonessential purposes... Such a plan grants a windfall to the Debtor, enriching him at creditors' expense to the extent of the equity accumulated post-petition." In re Cordes, 147 B.R. 498, 505 (Bkrtcy.D.Minn. 1992).

A Debtor(s)' proposal to maintain a high standard of living while proposing to pay unsecured creditors only a percentage of their claims is further indicative of a lack of good faith and "while the Court readily concedes that the function of the provisions under Chapter 13 of the act is not designed to condemn a Debtor(s) to a state of poverty, the Court also recognizes that the act was not designed to thrust a Debtor into a state of luxury to the detriment of his creditors." In re Jenkins, 20 B.R. 642, 643 (Ark. 1982). The burden is on the Chapter 13 Debtor(s) to establish good faith in the filing of a debt adjustment plan once that good faith is questioned. In re Belt, 106 B.R. 553 (Bkrtcy.N.D.Ind. 1989), §1325(a)(3).

- b. Disposable Income. That the Plan does not provide that all of the Debtor(s)' projected disposable income to be received in the first 36 months of the Plan will be applied to make Plan payments as required under §1325(b)(1)(B).

Debtor(s) in Chapter 13 Bankruptcy must include all "disposable income" in their payments to the Chapter 13 Trustee. In re McDaniel, 126 B.R. 782, 784 (Bkrtcy.D.Minn. 1991), §1325(b)(1)(B).

"Disposable income" is defined as that which is not "reasonably necessary" to be expended by the Debtor(s). The court must balance the interests of creditors against the interests of the Debtor(s) to determine the manner in which they should maintain and support themselves. Id. at 784. "But Debtors in Chapter 13 cases are not entitled to maintain their former lifestyles and statuses in society at the expense of their creditors." Id. at 784. The Schedules indicate additional disposable income of \$642.00 per month is available for Plan use.

In considering whether all of Debtor(s)' disposable income is going into the plan, the Court applies a "best efforts" test. In re Sitarz, 150 B.R. 710 (Bkrtcy.D.Minn.1993). Failure of the Debtor(s) to pass the "best efforts" test and to submit all disposable income during the first 36 months also constitutes a lack of good faith under §1325(a)(3). In re Cordes, 147 B.R. 498 (Bkrtcy.D.Minn.1992).

WHEREFORE, Ford Motor Credit Company requests the court deny confirmation of the proposed plan, and grant dismissal of the case, and such other relief as may be just and equitable.

Dated: July 28, 2004

STEWART, ZLIMEN & JUNGERS, LTD.

/e/ Linda Jeanne Jungers

Linda Jeanne Jungers, Atty ID #5303X

Attorneys for Movant

430 Oak Grove Street #200

Minneapolis, MN 55403

612-870-4100

This is a communication from a debt collector attempting to collect a debt. Any information obtained will be used for that purpose.

MINNESOTA DEPARTMENT OF PUBL
DRIVER & VEHICLE SERVICES DIVIS
445 MINNESOTA ST., ST. PAUL, MN 5:
CONFIRMATION OF LIEN PERFECTION - D.

ANDERSON DIANE
ANDERSON AL CHRIS
3454 KNOX AVE N
MPLS MN 55412

| | | | |
|--------------------------|--------------|---------------------------|------------------------|
| 03 Year | FORD Make | 2WEPR Model | H1470R185 Title NR. |
| 1FMZU70E63UA24926 VIN | | 04/25/03 Security Date | NO Rebuilt |

RETAIN THIS DOCUMENT - See reverse
side of this form for removing this lien.

PAID
Permit No. 171
St. Paul, MN

*

KYT759

1ST SECURED PARTY

LIEN HOLDER

FMCC
PO BOX 105704
ATLANTA GA 30348-5704

EXHIBIT A

MINNESOTA SIMPLE INTEREST VEHICLE RETAIL INSTALLMENT CONTRACT

DATE 04/25/2003

| | | |
|---|---|---|
| Buyer (and Co-Buyer) Name and Address (including County and Zip Code) | | CREDITOR (Seller Name and Address) |
| DIANE ANDERSON 3454 KNOX AV N MINNEAPOLIS MN 55412 HENNEPIN | AL CHRIS ANDERSON 3454 KNOX AV N MINNEAPOLIS MN 55412 HENNEPIN | SUPERIOR FORD, INC. 9700 56TH AVE. NO. PLYMOUTH, MN 55442 |

You, the Buyer (and Co-Buyer, if any), may buy the vehicle described below for cash or on credit. The cash price is shown below as "Cash Price." The credit price is shown below as "Total Sale Price." By signing this contract, you choose to buy the vehicle on credit under the agreements on the front and back of this contract.

| | | | | | |
|----------|---------------|-------|---------------------|-------------------------------|---|
| New/Used | Year and Make | Model | GVW if Truck (lbs.) | Vehicle Identification Number | Use For Which Purchased |
| NEW | 2003 | FORD | EXPL SPORT | 1FMZU70E63UA24926 | <input checked="" type="checkbox"/> Personal <input type="checkbox"/> Agricultural <input type="checkbox"/> Commercial |

| | | | | | | |
|----------|----|------|------|---------------|-----------------|---------------|
| Trade-In | 99 | MERC | SABL | Year and Make | Gross Allowance | Amount Owning |
| | | | | | \$ 7500.00 | \$ 7949.49 |

ITEMIZATION OF AMOUNT FINANCED

| | | |
|---|-------------|-----|
| 1. Cash Price | \$ 25958.58 | (1) |
| 2. Down Payment | | |
| Third Party Rebate Assigned to Creditor | \$ N/A | |
| Cash Down Payment | \$ 750.00 | |
| Trade-In (description above) | \$ -449.49 | |
| Total Down Payment | \$ 300.51 | (2) |
| 3. Unpaid Balance of Cash Price (1 minus 2) | \$ 25658.07 | (3) |
| 4. Amounts Paid On Your Behalf (Seller may be retaining a portion of these amounts) | | |
| To Public Officials | | |
| (i) for license, title & registration fees \$ 346.50 ; | | |
| (ii) for filing fees \$ N/A ; | | |
| (iii) for taxes (not in Cash Price) | \$ N/A | |
| To Insurance Companies for: | | |
| Credit Life Insurance | \$ N/A | |
| Credit Disability Insurance | \$ N/A | |
| N/A | \$ N/A | |
| To SUPERIOR FORD for DOC FEE | \$ 25.00 | |
| To SUPERIOR FORD for SERVICE CONTRACT | \$ N/A | |
| To SUPERIOR FORD for GAP INSURANCE | \$ 395.00 | |
| To _____ for _____ | \$ N/A | |
| Total | \$ 766.50 | (4) |
| 5. Amount Financed (3 plus 4) | \$ 26424.57 | (5) |

INSURANCE

YOU MAY OBTAIN VEHICLE INSURANCE FROM A PERSON OF YOUR CHOICE.

LIABILITY INSURANCE COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE CAUSED TO OTHERS IS NOT INCLUDED.

CREDIT LIFE, CREDIT DISABILITY AND OTHER OPTIONAL INSURANCE ARE NOT REQUIRED TO OBTAIN CREDIT AND WILL NOT BE PROVIDED UNLESS YOU SIGN AND AGREE TO PAY THE PREMIUM.

| | |
|--------------------------------------|--------------|
| <input type="checkbox"/> Credit Life | Insurer |
| \$ N/A | Insured(s) |
| \$ Premium | Signature(s) |

| | |
|--|-----------|
| <input type="checkbox"/> Credit Disability | Insurer |
| \$ N/A | Insured |
| \$ Premium | Signature |

| | |
|---|---------|
| <input type="checkbox"/> Other Optional Insurance | Term |
| \$ N/A | \$ N/A |
| Insurer | Premium |
| Signature | |

Credit Life and Credit Disability Insurance are for the term of the contract. The amount and coverage are shown in a notice or agreement given to you today.

You are required to insure the vehicle. If a charge is shown below, the Creditor will try to buy the coverages checked for the term shown. Coverages will be based on the cash value of the vehicle at the time of loss, but not more than the limits of the policy.

| | | |
|--|---------------------------------|----------------------|
| <input type="checkbox"/> Comprehensive | <input type="checkbox"/> \$ N/A | Deductible Collision |
| <input type="checkbox"/> Fire-Theft-Combined Additional Coverage | | |
| <input type="checkbox"/> Towing and Labor | | |
| <input type="checkbox"/> Term | \$ N/A | Months (Estimate) |
| Premium \$ | \$ N/A | |

FEDERAL TRUTH-IN-LENDING DISCLOSURES

| ANNUAL PERCENTAGE RATE | FINANCE CHARGE | Amount Financed | Total of Payments | Total Sale Price |
|--|--|--|---|---|
| The cost of your credit as a yearly rate | The dollar amount the credit will cost you | The amount of credit provided to you or on your behalf | The amount you will have paid when you have made all scheduled payments | The total cost of your purchase on credit, including your downpayment |
| 13.99 % | \$ 10670.43 | \$ 26424.57 | \$ 37095.00 | \$ 37395.51 |

| | | | |
|--------------------------------|--|------------------------|-----------------------------|
| Payment Schedule — | <input checked="" type="checkbox"/> Number of payments | Amount of Each payment | When Payments are due |
| Your payment schedule will be: | 59 | \$ 618.25 | monthly starting 06/09/2003 |
| | 1 final | \$ 618.25 | |

Prepayment: If you pay off your debt early, you will not have to pay a penalty.
Security Interest: You are giving a security interest in the vehicle being purchased.
Contract: Please see this contract for additional information on security interest, nonpayment, default, the right to require repayment of your debt in full before the scheduled date, and prepayment penalty.

COMMERCIAL OR AGRICULTURAL USE CONTRACTS: If you purchased the vehicle for commercial or agricultural use, you must pay a late charge on the portion of each payment received more than 10 days late of 7.5 percent of the late amount or \$50.00, whichever is less.

Any change in this contract must be in writing and signed by you and the Creditor.

| | |
|--------------------------------|--------------------------------------|
| Buyer: <u>x Diane Anderson</u> | Co-Buyer: <u>x Al Chris Anderson</u> |
| Signs | Signs |

YOU ACKNOWLEDGE THAT YOU HAVE READ AND AGREE TO BE BOUND BY THE ARBITRATION PROVISION ON THE REVERSE SIDE OF THIS CONTRACT.

NOTICE TO THE BUYER

Do not sign this contract before you read it or if it contains any blank spaces. You are entitled to an exact copy of the contract you sign. Buyer (and Co-Buyer) acknowledge that (i) before signing this contract, Buyer (and Co-Buyer) received and reviewed a true and completely filled in copy of this contract and (ii) at the time of signing this contract, Buyer (and Co-Buyer) received a true and completely filled in copy of this contract, signed by both Buyer (and Co-Buyer) and the seller.

IMPORTANT: THIS MAY BE A BINDING CONTRACT AND YOU MAY LOSE ANY DEPOSITS IF YOU DO NOT PERFORM ACCORDING TO ITS TERMS.

| | |
|-------------------------|----------------------------|
| <u>x Diane Anderson</u> | <u>x Al Chris Anderson</u> |
| Buyer Signs | (Co) Buyer Signs |

By signing below, the Seller accepts this contract. If no other assignee is named in a separate assignment attached to this contract, the Seller assigns it to Ford Motor Credit Company.

SUPERIOR FORD, INC. By x [Signature] BUSI. MGR.

FC 17622-SI Aug 02 (Previous editions may NOT be used)

SEE BACK FOR ADDITIONAL AGREEMENTS

Program No. _____

QUESTIONS?



PLEASE CALL US AT 1-800-727-7000

or
Visit us at www.fordcredit.com
02-001

ORIGINAL

ADDITIONAL AGREEMENTS

A. **Payments:** You must make all payments when they are due. You may prepay your debt at any time without penalty. This is a simple interest contract. The actual finance charge you agree to pay will depend on your payment patterns. The actual finance charge may exceed the disclosed Finance Charge if you make your payments later than the scheduled dates or in less than the scheduled amount. Your payment will be applied first to the earned and unpaid part of the Finance Charge and then to the unpaid Amount Financed. The Finance Charge is earned by applying the Annual Percentage Rate to the unpaid Amount Financed for the actual time that the unpaid Amount Financed is outstanding.

B. **Security Interest:** You give the Creditor a security interest in:

1. The vehicle and all parts or other goods put on the vehicle;
2. All money or goods received for the vehicle; and
3. All insurance premiums and service contracts financed for you.

This secures payment of all amounts you owe under this contract. It also secures your other agreements in this contract.

C. **Use of Vehicle - Warranties:** You must take care of the vehicle and obey all laws in using it. You may not sell or rent the vehicle, and you must keep it free from the claims of others. You will not use or permit the use of the vehicle outside of the United States, except for up to 30 days in Canada or Mexico, without the prior written consent of the Creditor. If the vehicle is of a type normally used for personal use and the Creditor, or the vehicle's manufacturer, extends a written warranty or service contract covering the vehicle within 90 days from the date of this contract, you get implied warranties of merchantability and fitness for a particular purpose covering the vehicle. Otherwise, you understand and agree that there are no such implied warranties.

D. **Insurance:** You must insure yourself and the Creditor against loss or damage to the vehicle. The type and amount of insurance must be approved by the Creditor. If the Creditor obtains a refund on insurance or service contracts, the Creditor will subtract the refund from what you owe. Whether or not the vehicle is insured, you must pay for it if it is lost, damaged, or destroyed.

If a charge for vehicle insurance is shown on the front, the Creditor will try to buy the coverages checked for the term shown. The Creditor is not liable, though, if he cannot do so. If these coverages cost more than the amount shown for insurance, the Creditor may buy them for a shorter term or he may give you credit for the amount shown. If he cannot buy any insurance, he will give you credit for the amount shown. The credit will be made to the last payments due.

E. **Late Payments:** You must pay any cost paid by the Creditor to collect any late payment, as allowed by law. Acceptance of a late payment does not excuse your default or mean that you can keep making payments after they are due. The Creditor may take the steps set forth in this contract if there is any default.

F. **Default:** You will be in default if:

1. You do not make a payment when it is due; or
2. You gave false or misleading information on your credit application relating to this contract; or
3. Your vehicle is seized by any local, state, or federal authority and is not promptly and unconditionally returned to you; or
4. You file a bankruptcy petition or one is filed against you; or
5. You do not keep any other promise in this contract.

If you default, the Creditor may require you to pay at once the unpaid Amount Financed, the earned and unpaid part of the Finance Charge, and all other amounts due under this contract. He may repossess (take back) the vehicle, too. He may also take goods found in the vehicle when repossessed and hold them for you.

If the vehicle is taken back, he will send you a notice. The notice will say that you may redeem (buy back) the vehicle. It will also show the amount needed to redeem. You may redeem the vehicle up to the time the Creditor sells it or agrees to sell it. If you do not redeem the vehicle, it will be sold.

The money from the sale, less allowed expenses, will be used to pay the amount still owed on this contract. Allowed expenses include those paid as a direct result of having to retake the vehicle, hold it, prepare it for sale, and sell it. You must also pay attorney fees not to exceed 15% of the amount due and payable under the contract, and court costs payable by Ford Credit to obtain, hold, and sell the vehicle, collect amounts due and enforce Holder's rights under the contract. If there is any money left (a surplus), it will be paid to you. If the money from the sale is not enough to pay off this contract and costs, you will pay what is still owed to the Creditor, if allowed by law. If you do not pay this amount when the Creditor asks, the Creditor may charge you interest at the highest lawful rate until you pay.

G. **Consumer Reports:** You authorize Ford Motor Credit Company to obtain consumer credit reports from consumer reporting agencies (credit bureaus) for any reason and at any time in connection with this contract.

H. **General:** To contact Ford Motor Credit Company about this account, call 1-800-727-7000. Also, you may make address and other selected changes at www.fordcredit.com. Any change in this contract must be in writing and signed by you and the Creditor. The law of Minnesota applies to this contract. If that law does not allow all the agreements in this contract, the ones that are not allowed will be void. The rest of this contract will still be good.

NOTICE — ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

Used Motor Vehicle Buyers Guide. If you are buying a used vehicle with this contract, federal regulations may require a special Buyers Guide to be displayed on the window of the vehicle. THE INFORMATION YOU SEE ON THE WINDOW FORM FOR THIS VEHICLE IS PART OF THIS CONTRACT. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT OF SALE.

*Does not apply if purchased for commercial or agricultural use. In that case, you (debtor) will not assert against any assignee or subsequent holder of this Contract any claims, defenses, or setoffs which you may have against the Seller or manufacturer of the vehicle.

GUARANTY

To cause the Seller to sell the vehicle described on the front of this contract to the Buyer, on credit, each person who signs below as a "Guarantor" guarantees the payment of this contract. This means that if the Buyer fails to pay any money that is owed on this contract, each one who signs as a guarantor will pay it when asked. Each person who signs below agrees that he will be liable for the whole amount owed even if one or more other persons also sign this Guaranty. He also agrees to be liable even if the Creditor does one or more of the following: (a) gives the Buyer more time to pay one or more payments; or (b) gives a release in full or in part to any of the other Guarantors; or (c) releases any security. Each Guarantor also states that he has received a completed copy of this contract and this Guaranty at the time of signing.

Guarantor _____ Address _____

Guarantor _____ Address _____

READ THIS ARBITRATION PROVISION CAREFULLY AND IN ITS ENTIRETY

ARBITRATION

Arbitration is a method of resolving any claim, dispute, or controversy (collectively, a "Claim") without filing a lawsuit in court. Either you or Creditor ("us" or "we") (each, a "Party") may choose at any time, including after a lawsuit is filed, to have any Claim related to this contract decided by arbitration. Such Claims include but are not limited to the following: 1) Claims in contract, tort, regulatory or otherwise; 2) Claims regarding the interpretation, scope, or validity of this clause, or arbitrability of any issue; 3) Claims between you and us, our employees, agents, successors, assigns, subsidiaries, or affiliates; 4) Claims arising out of or relating to your application for credit, this contract, or any resulting transaction or relationship, including that with the dealer, or any such relationship with third parties who do not sign this contract.

RIGHTS YOU AND WE AGREE TO GIVE UP

If either you or we choose to arbitrate a Claim, then you and we agree to waive the following rights:

- RIGHT TO A TRIAL, WHETHER BY A JUDGE OR JURY
- RIGHT TO PARTICIPATE AS A CLASS REPRESENTATIVE OR A CLASS MEMBER IN ANY CLASS CLAIM YOU MAY HAVE AGAINST US WHETHER IN COURT OR IN ARBITRATION
- BROAD RIGHTS TO DISCOVERY AS ARE AVAILABLE IN A LAWSUIT
- RIGHT TO APPEAL THE DECISION OF AN ARBITRATOR
- OTHER RIGHTS THAT ARE AVAILABLE IN A LAWSUIT

Rights You And We Do Not Give Up: If a Claim is arbitrated, you and we will continue to have the following rights, without waiving this arbitration provision as to any Claim: 1) Right to file bankruptcy in court; 2) Right to enforce the security interest in the vehicle, whether by repossession or through a court of law; 3) Right to take legal action to enforce the arbitrator's decision; and 4) Right to request that a court of law review whether the arbitrator exceeded its authority.

Either Party must contact any association below and the other Party to start arbitration. The applicable rules (the "Rules") may be obtained from the association.

- American Arbitration Association ("AAA"), at 1-800-778-7879, or www.adr.org;
- J.A.M.S./Endispute, at 1-800-448-1560, or www.jamsadr.com;
- National Arbitration Forum, at 1-800-474-2371, or www.arb-forum.com.

If there is a conflict between the Rules and this contract, this contract shall govern. This contract is subject to the Federal Arbitration Act (9 U.S.C. § 1 et seq.) and the Federal Rules of Evidence. The arbitration decision shall be in writing with a supporting opinion. We will pay your total reasonable arbitration fees and expenses (not including attorney fees, except where applicable law otherwise provides) in excess of \$125. We will pay the whole filing fee if we demand arbitration first. Any portion of this arbitration clause that is unenforceable shall be severed, and the remaining provisions shall be enforced.

FC 17823-SI Aug 02 (Previous editions may NOT be used.)

04-03081-0

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

Case No. 04-43861

In Re:
Diane Anderson
and Al C Anderson,

Debtors.

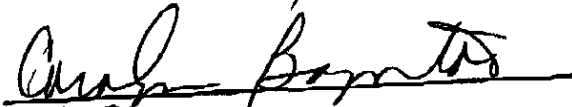
Chapter 13 Case

VERIFICATION FOR CONFIRMATION OBJECTION

I, Carolyn Boynton, the Designated Agent for Ford Motor Credit Company, the Creditor herein, declare under penalty of perjury that the following is true and correct according to the best of my knowledge, information and belief, and based on the Creditor's business records:

1. I am legally competent to testify and am personally familiar with the debt owed by Debtor to the Creditor on account number(s) 34414352.
2. The Debtor owes the Creditor \$23,261.88, payoff amount as of July 13, 2004, plus accrued unpaid interest thereon since that date. The monthly loan payment is \$618.25. As of July 13, 2004, the loan payments are in arrears \$618.25 for payments owing since July 9, 2004.
3. The debt owed to the Creditor is secured by a perfected lien on a 2003 FORD EXPLORER SPORT 4WD XLT. The current NADA published retail value of the collateral is \$18,800.00.
4. True and correct copies of the title documents are attached to the Motion as Exhibit "A". True and correct copies of the loan documents are attached as Exhibit "B".

Dated: 7-27-04



Carolyn Boynton
Ford Motor Credit Company
National Bankruptcy Svc Center
P.O. Box 537901
Livonia, MI 48153-7901

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Case No. 04-43861

Diane Anderson
and Al C Anderson,

Debtors,

Chapter 13 Case

UNSWORN DECLARATION OF PROOF OF SERVICE

I, Linda Jeanne Jungers, declare under penalty of perjury that on July 28, 2004, I mailed copies of the foregoing Objection to Confirmation of Plan with Memorandum, Verification, proposed Order, and Unsworn Declaration of Proof of Service, by first class mail, postage prepaid, to each entity named below at the address stated below for each entity.

Diane Anderson
9325 Garland Ave, Apt 106
Maple Grove, MN 55311

Al C Anderson
9325 Garland Ave, Apt 106
Maple Grove, MN 55311

PRESCOTT & PEARSON, PA
Attn: Richard J Pearson
PO Box 120088
New Brighton, MN 55112

Jasmine Z. Keller
Chapter 13 Trustee
12 S. 6th St #310
Minneapolis, MN 55402

U.S. Trustee
1015 U.S. Courthouse
300 South 4th Street
Minneapolis, MN 55415

Executed on: July 28, 2004

Signed: /s/Linda Jeanne Jungers
Linda Jeanne Jungers
STEWART, ZLIMEN & JUNGERS
430 Oak Grove Street, #200
Minneapolis, MN 55403

04-03081-0

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Case No. 04-43861

Diane Anderson
and Al C Anderson,

Chapter 13 Case

Debtors,

ORDER DENYING CONFIRMATION OF CHAPTER 13 PLAN

This Chapter 13 case came on before the Court on September 2, 2004 at 10:30 AM, for hearing on confirmation of a proposed Plan of individual debt adjustment. Linda Jeanne Jungers appeared on behalf of Ford Motor Credit Company. Other appearances were as noted in the record. Upon the record made at the hearing, and the other files, records, and proceedings in this case,

IT IS HEREBY ORDERED:

That confirmation of Debtor's Plan of debt adjustment is denied.

Dated:

BY THE COURT:

United States Bankruptcy Judge